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THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Chris Kohler, Plaintiff, vs. The Vons Companies, Inc. dba Vons #2360, Defendant.	Case No. 08cv0082 IEG (RBB) **Plaintiff's Acceptance of Defendant's Offer of Judgment**

COMES NOW the plaintiff, by and through counsel, and pursuant to Rule 68 of the Federal Rules of Civil Procedure, hereby gives notice of acceptance and hereby accepts "The Vons Companies, Inc.'s F.R.Civ.P. 68 Offer of Judgment" dated February 13, 2008, made on behalf of Defendant The Vons Companies, Inc.. *See* Exhibit A.

Plaintiff hereby requests that judgment be entered in accordance with that offer.

Dated: February 18, 2008 DISABLED ADVOCACY GROUP, APLC

/s/ Lynn Hubbard, Esquire /
LYNN HUBBARD, III
Attorney for Plaintiff

EXHIBIT A

MAZZARELLA ■ CALDARELLI LLP
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Attorneys for Defendant
THE VONS COMPANIES, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHRIS KOHLER, Plaintiff, vs. THE VONS COMPANIES, INC., dba VONS #2360, Defendant.	Case No.: '08 CV 0082 IEG (RBB) **THE VONS COMPANIES, INC.'s F.R.Civ.P. 68 OFFER OF JUDGMENT**

Defendant The Vons Companies, Inc. ("Vons") offers to allow judgment to be taken against it in this action under Federal Rule of Civil Procedure 68, as follows:

1. Vons will maintain the Vons store at 845 College Boulevard in Oceanside, California, in compliance with the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"), the applicable sections of the California Building Code and Title 24 of the California Administrative Code, by doing each of the following, or causing such to be done:

a) An accessible path will be maintained from the public transportation stop nearest this Vons store to the store entrance.

b) The tow-away signage at the parking lot entrance will be maintained, and replaced if necessary, to comply with the ADAAG and applicable California regulations.

c) The trash receptacle near the store entrance shall be moved, or removed if necessary, to comply with the ADAAG and applicable California regulations.

d) Clear floor space near the pottery counter in the store will be maintained in compliance with the ADAAG and applicable California regulations.

e) At least one check-out stand in this store will be designated accessible and signage provided therefor in compliance with the ADAAG and applicable California regulations.

f) The pay-point machine at the designated accessible check-out stand(s) will be located within the required reach range limits of the ADAAG and applicable California regulations, or alternatively will be a removable pay-point machine that a customer may hold.

g) Toilet tissue dispensers in the store restrooms will be maintained, and replaced or relocated if necessary, to comply with the ADAAG and applicable California regulations.

h) Paper towel dispensers in the store restrooms will be maintained, and replaced or relocated if necessary, to comply with the ADAAG and applicable California regulations.

i) The pipes underneath the restroom lavatories will be properly wrapped to comply with the ADAAG and applicable California regulations.

j) Toe and knee clearance underneath the restroom lavatories will be maintained, or created if necessary, to comply with the ADAAG and applicable California regulations.

2. Vons shall pay to Plaintiff Chris Kohler ("Plaintiff") the amount of $4,001.00 as total damages for all claims and causes of action in Plaintiff's complaint.

3. Vons shall pay Plaintiff his reasonable attorney fees and costs accrued in this action as determined by the Court upon noticed motion by Plaintiff, as allowed by Federal Rule of Civil Procedure 54.

This offer of judgment is made solely for the purposes set forth in Rule 68, and cannot be construed either as an admission that Vons has any liability in this action, or that Plaintiff has suffered any damage or injury.

Plaintiff has ten (10) days from the date on which this offer was served to accept it in writing. If Plaintiff accepts this offer in writing within the time allotted, then the offer will be filed with the Court and the clerk of the Court will enter a final judgment in this action that conforms to the terms set forth in this offer. If Plaintiff fails to accept this offer within the time allotted, it is automatically deemed withdrawn. If Plaintiff fails to recover a more favorable judgment than that specified herein, Plaintiff may be liable for all costs of suit incurred by Vons after the date of this offer, to the fullest extent permitted by applicable law.

Dated: February 13, 2007

MAZZARELLA ■ CALDARELLI LLP

By: ____________________
MICHAEL D. FABIANO
Attorneys for Defendant
THE VONS COMPANIES, INC.

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT		COURT USE ONLY
TITLE OF CASE (ABBREVIATED) CHRIS KOHLER v. THE VONS COMPANIES, INC. dba VONS #2360		
ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Michael D. Fabiano (SBN 167058) Tel. (619) 238-4900 Mazzarella Caldarelli LLP Fax: (619) 238-4959 550 West C Street, Suite 700 San Diego, CA 92101		
ATTORNEYS FOR: Defendant The Vons Companies, Inc.	HEARING DATE – TIME	CASE NUMBER: 08-CV-0082 IEG (RBB)

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is Mazzarella Caldarelli LLP, 550 West C Street, Suite 700, San Diego, CA 92101.

On February 13, 2008, I caused the following documents to be served:

THE VONS COMPANIES, INC.'s F.R.Civ.P. 68 OFFER OF JUDGMENT

☐ **By Electronic Filing:** I am familiar with the United States District Court, Southern District of California's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the court. The court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the court's transmission facilities. Under said practice, the following CM/ECF users were served:

Lynn Hubbard III, Esq.
Scottlynn J. Hubbard IV
DISABLED ADVOCACY GROUP, APLC
12 Williamsburg Lane
Chico, CA 95926

Attorneys for Plaintiff

(530) 895-3252 – Telephone
(530) 894-8244 - Facsimile

☐ **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addressed below and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ **By personal service.** I delivered such envelope by hand to the office of the addressee.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 13, 2008, at San Diego, California.

Rita Behring